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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,482

03/31/2004

Toshiharu Furukawa

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07/16/2009

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EXAMINER

GOODWIN, DAVID J

ART UNIT

PAPER NUMBER

2818

MAIL DATE

DELIVERY MODE

07/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte:
TOSHIHARU FURUKAWA, CHARLES WILLIAM KOBURGER, III, and
JAMES ALBERT SLINKMAN

Application 10/814,482
Technology Center 2800

Mailed: July 16, 2009

Before SHERRIE SAUNDERS-COBB, *Paralegal Specialist*
SAUNDERS-COBB, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 11, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on December 14, 2007, in response to the Examiner's Answer mailed November 1, 2007.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed February 1, 2008, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

INFORMATION DISCLOSURE STATEMENT

Appellants filed Information Disclosure Statements (IDS) dated April 11, 2008. There is no indication on the record that the Examiner has considered the above IDS. MPEP § 609 requires the Examiner to consider any IDS filed by Applicant if timely submitted. A written communication notifying Appellant of the Examiner's consideration of the above IDS is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) vacate the Communication mailed February 1, 2008;
- 2) generate and mail either:
 - a) a revised Communication properly acknowledging to the Reply Brief dated December 14, 2007 in accordance with MPEP§ 1208, part II.; OR
 - b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate;
- 3) consider the IDS filed April 11, 2008; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Ssc

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